

### **REMARKS**

This responds to the Office Action mailed on May 22, 2008.

Claims 19, 23, 26, 27, 32, 40, 49, and 54 are amended, claims 43-48 are canceled, and claims 56-61 are added; as a result, claims 1-42 and 49-61 are now pending in this application.

#### **§101 Rejection of the Claims**

Claims 19-32, 40-45 and 49-55 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicant has amended independent claims 19, 23, 26, 27, 32, 40, 43, 49, and 54 to overcome these rejections. In particular, with respect to claims 19 and 54, Applicant has included a system structure to display the previously-claimed user interface. Moreover, with respect to claims 23, 26, 27, 40, 43, and 49, Applicant has included the term “tangible” to modify the previously-recited term “computer readable medium” to further illustrate the physical nature of the claimed computer readable medium. Finally, with respect to claim 32, Applicant has included physical components to provide the previously-recited functions. Applicant respectfully submits that the present amendments overcome the § 101 rejections and request reconsideration and withdrawal of these rejections of these claims.

#### **§102 Rejection of the Claims**

Claims 1-17, 19-29, 31-42 and 49-55 were rejected under 35 U.S.C. § 102(e) for anticipation by Jakobson et al. (U.S. 6,766,368; hereinafter “Jakobson”). Applicant respectfully traverses these rejections.

In general, Applicant’s systems and methods are directed to defining one or more client configurations of interest (CoI) at a server, where a CoI may include hardware or software settings or states on the client. For example, a hardware CoI may include a processor type, family, speed, manufacturer, number of, or the like. As another example, a software CoI may include an operating system, an operating system version, or an operating system type. After defining the CoI, it is communicated to one or more client machines. The client machines use the CoI to determine what information is to be monitored and reported on. When the client detects a state change of an aspect indicated in a CoI, the client can communicate the state

change to the server and obtain instructions, if any, to perform based on the changed state. In addition, the server may perform an action upon detecting the changed state of the client, such as associating the client machine with a group of machines that share a similar characteristic.

In contrast, the primary reference Jakobson is apparently related to detecting network events in a networked system.<sup>1</sup> These events are not described as being events related to conditions defined or managed at a server, but instead are apparently spurious events that occur with respect to “network problems, disorders and anomalies that periodically occur in the network hardware, software, or both.”<sup>2</sup> These events are then correlated using event correlation methodologies to filter and aggregate events, detect trends, and report results.<sup>3</sup>

Concerning claims 1-6, and 40-42:

Applicant cannot find in the cited portions of Jakobson any disclosure or description of “defining, by a server, a set of one or more properties defining a client configuration of interest,” as recited in independent claim 1. Instead, the cited portions of Jakobson appear to merely describe various services provided on a networked system (e.g., a message parsing service 20, a network management service 30, an event notification service 40, a network mediation service 50, an event correlation service 60, a database service 70, and a network topology service 80)<sup>4</sup> and the message passing service’s use of a communication interface, namely CORBA<sup>5</sup>. In addition, as described above, it appears that Jakobson is merely related to receiving or gathering messages that represent network events, and then processing the messages using correlation methodologies.<sup>6</sup> As such, Applicant respectfully submits that these portions of Jakobson do not anticipate “defining, by a server, a set of one or more properties defining a client configuration of interest,” as recited in claim 1 and incorporated in dependent claims 2-6.

Moreover, Applicant cannot find in the cited portions of Jakobson any disclosure or description of “communicating over a network, from the server to one or more clients, the configuration of interest,” as recited in independent claim 1. Because Jakobson does not

<sup>1</sup> Jakobson at Abstract.

<sup>2</sup> Jakobson at col. 1, line 25 – col. 2, line 67.

<sup>3</sup> Jakobson at col. 3, line 1 – col. 4, line 20; col. 7, lines 14-34; col. 12, lines 21-41; FIG. 6.

<sup>4</sup> Jakobson at col. 8, lines 62-67.

<sup>5</sup> Jakobson at col. 9, lines 1-40.

<sup>6</sup> Jakobson at Abstract.

describe or disclose defining a client configuration of interest, Jakobson clearly cannot anticipate communicating a configuration of interest over a network. As such, Applicant respectfully submits that these portions of Jakobson do not anticipate “communicating over a network, from the server to one or more clients, the configuration of interest,” as recited in claim 1 and incorporated in dependent claims 2-6.

Moreover, Applicant cannot find in the cited portions of Jakobson any disclosure or description of “evaluating dynamically the state of each of the one or more clients relative to the configuration of interest communicated from the server,” as recited in independent claim 1. Once again, because Jakobson does not describe or disclose defining a client configuration of interest, clearly, it cannot anticipate the use of a configuration of interest to dynamically evaluate the state of each client with respect to the configuration of interest. As such, Applicant respectfully submits that these portions of Jakobson do not anticipate “evaluating dynamically the state of each of the one or more clients relative to the configuration of interest communicated from the server,” as recited in claim 1 and incorporated in dependent claims 2-6.

Claim 40 recites functionality similar to that recited in claims 1-3 in the form of a computer readable medium. Claims 41-42 depend from claim 40. Applicant respectfully submits that claims 40-42 are patentable for at least the reasons presented with respect to claims 1-6.

Thus, Applicant respectfully requests reconsideration and withdrawal of these rejections of claims 1-6 and 40-42.

Concerning claims 7-11, 23-25, and 36-39:

Similar to the arguments provide with respect to claims 1-6, Applicant respectfully submits that Jakobson cannot anticipate claims 7-11 because Jakobson fails to disclose or describe “receiving, on a client over a network from a server, one or more configurations of interest,” “evaluating dynamically the state of the client relative to the configurations of interest received,” and “sending a data structure from the client to the server, wherein the data structure includes data representative of client properties in relation to the configurations of interest on the client,” as recited in claim 7 and incorporated in claims 8-11.

Claim 23 is an independent claim that recites similar functionality in the form of a computer readable medium. Claims 24-25 depend from claim 23 and therefore incorporate these similar limitations. Applicant respectfully submits that claims 23-25 are patentable for at least the reasons presented with respect to claims 7-11.

Moreover, claim 36 is an independent claim that recites similar functionality in the form of a system claim. Claims 37-39 depend from claim 36 and therefore incorporate the limitations of the base claim 36. Applicant respectfully submits that claims 36-39 are patentable for at least the reasons presented with respect to claims 7-11.

Thus, Applicant respectfully requests reconsideration and withdrawal of the basis of rejection of claims 7-11 23-25, and 36-39.

Concerning claims 12-13:

Applicant respectfully submits that because Jakobson fails to disclose or describe the defining of a configuration of interest (see *supra*), it naturally follows that Jakobson also fails to disclose or describe “evaluating local properties of a client computer dynamically over a network for conformance with a configuration of interest defined on a server,” as recited in claim 12 and incorporated in claim 13. Thus, Applicant respectfully submits that Jakobson fails to anticipate claims 12-13 and requests reconsideration and withdrawal of the basis of rejections of these claims.

Concerning claims 14-17, 27-29, and 31:

Applicant respectfully submits that because Jakobson fails to disclose or describe the defining of a configuration of interest (see *supra*), it naturally follows that Jakobson also fails to disclose or describe “maintaining a list of configurations of interest and one or more actions associated with each of the one or more configurations of interest,” “receiving data representing a current state of a client computer relative to each one of the configurations of interest,” and determining an action to be carried out based on the data representing the current state of the computer and the configurations of interest,” as recited in claim 14 and incorporated in claims 15-17. In addition, there is no disclosure or description of performing the “receiving” and “determining” steps again on the “updated data” as further recited in claim 14.

Claims 27-29 and 31 recite similar functionality in the form of a computer readable medium. Applicant respectfully submits that claims 27-29 and 31 are patentable for at least the reasons presented with respect to claims 14-17.

Thus, Applicant respectfully submits that Jakobson fails to anticipate claims 14-17, 27-29, and 31 and requests reconsideration and withdrawal of the basis of rejections of these claims.

Concerning claims 19-22:

Applicant respectfully submits that because Jakobson fails to disclose or describe the defining of a configuration of interest (see *supra*), it naturally follows that Jakobson also fails to disclose or describe a “user interface that is operable for editing a configuration of interest for storage on a server and distribution to clients over a network, wherein the configuration of interest, when distributed to clients, causes the clients to identify themselves to the server according to their states relative to the configuration of interest, further wherein the configuration of interest persists on the clients and upon modification of properties on a client encompassed by the configuration of interest the modification is communicated to the server,” as recited in claim 19 and incorporated in claims 20-22.

Moreover, Applicant respectfully submits that the cited portions of Jakobson do not disclose or describe a responsive operation, such as that recited in claim 19. In particular, as recited in claim 19, the distribution of the configuration of interest *causes* the client to identify themselves to the server according to their states relative to the configuration of interest.

Claims 20-22 depend from claim 19 and therefore incorporate all of the limitations of claim 19. As such, Applicant respectfully submits that claims 20-22 are patentable for at least the reasons presented with respect to claim 19.

Thus, Applicant respectfully submits that Jakobson fails to anticipate claims 19-22 and requests reconsideration and withdrawal of the basis of rejections of these claims.

Concerning claim 26:

Applicant respectfully submits that because Jakobson fails to disclose or describe the defining of a configuration of interest (see *supra*), it naturally follows that Jakobson also fails to disclose or describe “causing an appropriately configured computer to dynamically evaluate

local properties of a client computer, over a network, for conformance with a configuration of interest defined in a data store,” as recited in claim. Thus, Applicant respectfully submits that Jakobson fails to anticipate claim 26 and requests reconsideration and withdrawal of the basis of rejections of this claim.

Concerning claim 32:

Applicant respectfully submits that because Jakobson fails to disclose or describe the defining of a configuration of interest (see *supra*), it naturally follows that Jakobson also fails to disclose or describe “a mechanism to define configurations of interest and to convey the configurations of interest; and a mechanism to receive configurations of interest and to dynamically evaluate local properties relative to the configurations of interest,” as recited in claim 32. Thus, Applicant respectfully submits that Jakobson fails to anticipate claim 32 and requests reconsideration and withdrawal of the basis of rejections of this claim.

Concerning claims 33-35:

Applicant respectfully submits that because Jakobson fails to disclose or describe the defining of a configuration of interest (see *supra*), it naturally follows that Jakobson also fails to disclose or describe “provide a mechanism to define configurations of interest,” “distribute one or more of the configurations of interest to one or more client computers over the network interface,” and “receive dynamically, over the network interface, data representing a current state of each of the one or more client computers relative to one or more of the configurations of interest, wherein each client computer communicates current state data dynamically upon a state change,” as recited in claim 33 and incorporated in claims 34-35. Thus, Applicant respectfully submits that Jakobson fails to anticipate claims 33-35 and requests reconsideration and withdrawal of the basis of rejections of these claims.

Concerning claims 49-55:

Applicant respectfully submits that the cited portions of Jakobson fail to disclose or describe “a tangible computer readable medium encoded with a data structure created by a server for access by a network device, the data structure comprising: one or more statements..., logical

operator data..., and precedence operator data,” as recited in independent claim 49 and incorporated into dependent claims 50-53. Instead, the cited portions of Jakobson merely refer to services provided on a networked system and a communication interface.<sup>7</sup> The references to “objects” and XML in these portions of Jakobson are merely referring to how CORBA may be implemented to “provide distributed object event distribution.”<sup>8</sup> They are not used to define “one or more statements, each one of the statements comprising: a property identifier to be evaluated locally on a network device, a value with which the property is to be compared, and a comparison operator to compare the locally-evaluated property identifier with the value,” “logical operator data, the logical operator data comprising logical operators for combining the statements to be evaluated by the network device,” or “precedence operator data, the precedence operator data comprising precedence operators controlling the logical evaluation of the one or more statements and the logical operator data,” as recited in claim 49.

Claim 54 recites functionality similar to that recited in claims 49-53 in the form of a system. Claim 55 depends from claim 54. Applicant respectfully submits that claims 54-55 are patentable for at least the reasons presented with respect to claims 49-53.

Thus, Applicant respectfully submits that Jakobson fails to anticipate claims 49-55 and requests reconsideration and withdrawal of the basis of rejections of these claims.

### §103 Rejection of the Claims

Claims 18, 30 and 43-48 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Jakobson as applied to claims 14, 17 and 27-28 above, and further in view of Elderton et al. (U.S. 6,477,572; hereinafter “Elderton”).

### Concerning claims 18 and 30:

Claim 18 depends from independent claim 14, either directly or indirectly, and therefore incorporates all of the limitations of claim 14. Applicant respectfully submits that claim 18 is patentable for at least the reasons presented above with respect to claim 14. In particular, Jakobson fails to disclose or describe at least “maintaining a list of configurations of interest and one or more actions associated with each of the one or more configurations of interest” in

<sup>7</sup> Jakobson at col. 8, line 41 – col. 9, line 40.

<sup>8</sup> Jakobson at col. 9, lines 14-40.

addition to the other limitations recited in claim 14. Moreover, Elderton fails to remedy this deficiency because Elderton fails to describe, teach, or suggest client configurations of interest with associated actions, receiving data from clients representing the clients' state with respect to the client configurations of interest, and determining an action to be performed based on the clients' state.

Claim 30 depends from independent claim 27, either directly or indirectly, and therefore incorporates all of the limitations of claim 27. Applicant respectfully submits that claim 30 is patentable for at least the reasons presented above with respect to claim 27. Moreover, claim 30 recites similar functionality to that of claim 18 in the form of a computer readable medium. Therefore, Applicant respectfully submits that claim 30 is patentable for similar reasons presented with respect to claim 18.

As such, Applicant respectfully submits that claims 18 and 30 are patentable for at least the reasons presented with respect to claims 14 and 27, respectively, and requests reconsideration and withdrawal of this basis of rejection of this claim.

#### New claims 56-61

Support for claims 56-61 can be found throughout the originally-filed specification. For example, support for claims 56-57 and 60 can be found at least on page 8, lines 5-16; claims 58 and 59 can be found at least on page 6, line 1 to page 7, line 27; and claim 61 can be found at least on page 6, lines 3-15. As such, Applicant respectfully submits that new claims 56-61 do not introduce any new matter. Claims 56-61 recite elements such as a "defining a configuration of interest" and "transmitting the configuration of interest from the server computer to one or more client computers," which as discussed above are not found in the cited references. Thus, Applicant respectfully submits that these claims are allowable over the current references and request notification of the same.



Reservation of Rights

In the interest of clarity and brevity, Applicant may not have equally addressed every assertion made in the Office Action, however, this does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

**CONCLUSION**


Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 371-2134 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402  
(612) 371-2134

Date 24 Nov 2008

By   
John I. Fischer  
Reg. No. 60,900

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 24th day of November, 2008.

  
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